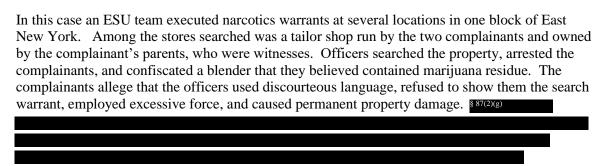
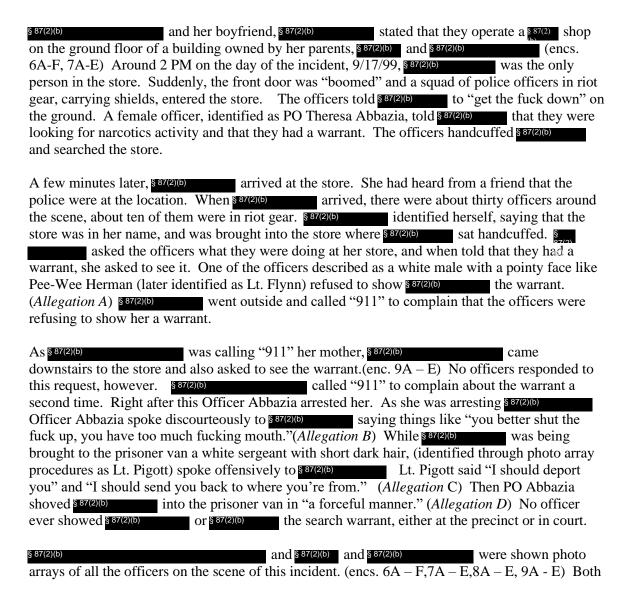
CCRB INVESTIGATIVE RECOMMENDATION

Investigator:		Team:	CCRB Case #:	▼ Force	· 📈	Discourt	□ U.S.
				-	_		<u>—</u>
Jane Flanagan		Team # 8	9904267	☑ Abus	e ✓	O.L.	☑ Injury
Incident Date(s)		Location of Incident:	•	Precino	et: 18	8 Mo. SOL	EO SOL
Friday, 09/17/1999 2:15 PM		§ 87(2)(b)		73	3	3/17/2001	3/17/2001
Date/Time CV Reported		CV Reported At:	How CV Reported:	Date/	Time Red	ceived at CC	RB
Mon, 09/20/1999 9:43 AM		CCRB	Phone	Mon,	09/20/19	999 9:43 AN	1
Complainant/Victim	Туре	Home Addre	ess	•			
Witness(es)		Home Addro	ess				
Subject Officer(s)	Shield	TaxID	Command				
1. LT Charles Flynn	00000	887813	073 PCT				
2. POF Theresa Abbazia	26336	915210	073 PCT				
3. LT Michael Pigott	00000	892561	073 PCT				
Witness Officer(s)	Shield N	Io Tax No	Cmd Name				
1. SGT Michael McMahon	02892	893365	I.A.B.				
2. SGT Robert Mellina	00138	890543	073 PCT				
3. SSA Thomas Urban	02799	874830	ESU				
4. SSA Joseph Diaz	03415	873544	ESS 06				
Officer(s)	Allegatio	on]	Investig	gator Recor	nmendation
A.LT Charles Flynn	Abuse: L	t. Flynn refused to show	w the search warrant	to §			
B.POF Theresa Abbazia	Discourt	esy: PO Abbazia spoke	rudely to § 87(2)(b)				
C.LT Michael Pigott	Off. Lan to § 87(2)(b)	Off. Language: Lt. Pigott made remarks based on ethnicity to \$37(2)(b)					
D.POF Theresa Abbazia	Force: Po	O Abbazia used physica	l force on § 87(2)(b)				

Synopsis



Summary of Complaint



positively identified PO Abbazia as the female officer who searched the store and spoke rudely. Sa7(2)(b) further identified Lt. Flynn as the officer that refused to show her the search warrant, and Lt. Pigott as the officer who told her to "go back to where she came from."					
Results of Investigation					
Various documents were ordered in regards to this complaint. §87(2)(e), §87(2)(f)					
warrant request specifies that the subject location was a stop located on the ground floor of the building. (encs. 18A - B) The updated roll call shows that PO Lanzarone was actually out sick on the day of the incident and that PO Abbazia was acting in her place. (enc. 21A- E) The "UF 49" written by Sgt. Mellina of the 73 precinct, identifies the main officers on the scene at the stop shop. (encs. 26A - B)					
The E.S.U apprehensions team paperwork reveals that Sgt. Mellina of the 73 rd precinct had requested E.S.U assistance executing the warrant. This report attests that there was a "no knock endorsement" on the warrant. The ESU report indicates that marijuana residue and paraphernalia were recovered on the premises, and that PO Abbazia made two arrests. (enc.25A - E)					
The copies of the arrest reports show that \$87(2)(b) and \$87(2)(b) were arrested for narcotics recovered on the premises. (encs.22A – B, 23) Among the items vouchered with the arrest were a bag allegedly containing marijuana residue, a scale, some small plastic bags, and a juice man allegedly containing marijuana residue.(enc.20A - B) \$87(2)(b) and \$87(2)(b) pled not guilty and the charges have since been dismissed.					
Seven officers were interviewed in regards to this incident. Neither of the ESU personnel interviewed could provide many details of the incident. Sergeant Thomas Urban was the head of the E.S.U apprehension team. He did not remember the incident, but did have a copy of the E.S.U report. (encs. 17A – E, 25A - E) Sergeant Diaz was in charge of the E.S.U entry team. (enc.16A - D) He had executed the warrants at and and believed that he may have gone into the store at store at store at store at an and a female civilian inside the store, but did not recall hearing any discourtesies, offensive language, or witnessing any arrests.					
Four of the officers from the 73 rd precinct were in the \$87(2)(b) s store on the day of the incident and were interviewed in regard to the complaint. Three officers from the 73 rd ; PO Abbazia, Sgt. Mellina, and Lt. Pigott all denied that they ever used, or heard another officer use, discourteous or offensive language with \$87(2)(b) encs.11A – D,12A – D,15A – E) Sgt. Mellina and PO Abbazia stated that \$87(2)(b) was shown a copy of the warrant, but neither recalled when \$87(2)(b) was shown the warrant. Lt. Pigott did not recall if \$87(2)(b) ever asked to see a copy of the warrant, but stated that no officer denied her the warrant. Neither Sgt. Mellina nor Lt. Pigott recalled who placed \$87(2)(b) in the van. PO Abbazia denied that she placed \$87(2)(b) in the prisoner van, and did not recall who did put her in the van.					
Lt. Flynn of the 73 rd precinct did not recall the incident. He stated that he had been across the street working on another warrant and did not remember being in the \$87(2) shop at \$87(2) or interacting with either \$87(2)(0) or encs. 14A - D) However, in his interview,					

Sgt. Mellina stated that Lt. Flynn was on the scene at the stated shop. Sgt. Mellina identified Lt. Flynn as fitting the description of the "Pee Wee Herman looking officer." (encs. 12A - D)

The only officer interviewed that did not pertain to the 73rd or E.S.U was Sergeant MacMahon from IAB warrant execution.(encs. 13A - D) Sergeant MacMahon had been across the street working on another one of the warrants when he was called across the street to help handle an "unruly female." The sergeant stated that he did not hear any officers use discourtesies with this woman, and denied that he or any one else used offensive language with her. Sergeant McMahon could not recall if [567(2)(0)] was showed the warrant, or how she was placed in the prisoner van.

Conclusions and Recommendations

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)
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Allegation A, abuse – refusal to show warrant, is found in Criminal Procedure law sections §120.90 and §690.50.(enc. Appendix 1A – B) These sections outline that in cases of "no-knock" warrants, the same guidelines apply as with a warrant for arrest. Under these guidelines the officer must show the warrant "upon request if he has it in his possession," and "as soon after the arrest as possible" if the officer does not have it in his possession. In this case [887(2)(6)] and [837(2)(6)] all stated that although they repeatedly asked to see the warrant, they were never shown it, not even at the precinct or in court. [837(2)(6)] specifically alleged that when she asked to see the warrant, Lt. Flynn stated "We don't have to show you shit."

§ 87(2)(g) , Lt.
Flynn denied that he had been in the \$87(2)(b) s store on the day of the incident. Lt. Flynn did
recall the day of the incident and the operation, however he only remembered executing the
search warrant across the street. The report filled out by Sgt. Mellina, as well as the testimonies of
Sgt. Mellina, Sgt. McMahon, and Lt. Pigott, all suggest that Lt. Flynn was present at the [87(2)]
shop. §87(2)(b), §87(2)(g)
Shop.
stated in her original CCRB interview, and in the photo array procedure,
that PO Abbazia spoke very rudely to her and used discourtesies throughout the incident. Her
father, \$87(2)(b) had corroborated this allegation in his original statement. \$87(2)(b) also
corroborated this allegation when he identified PO Abbazia in the photo-array procedure, saying
that she was the officer who was being "rude" and "nasty." However, all of the officers
interviewed denied that they heard any officer using discourteous language and PO Abbazia
denied using it. \$87(2)(9)
defined using it.
All C was also made by (0.7/0/4).
Allegation C was also made by $\$87(2)(6)$ She alleges that after she was arrested, and before
she was placed in the prisoner van, a dark haired officer in a white shirt spoke offensively to her,
saying "you should go back to where you come from." When looking at photo arrays
identified this officer as Lt. Pigott and stated again that he was the man who told her to
"go back to where you come from." All of the other officers interviewed denied that they ever
heard any officer make this statement, and there were no civilian witnesses. §87(2)(b). §87(2)(g)
§ 87(2)(b), § 87(2)(g)

Investigator:	Date:
Supervisor:	Date:
Reviewed by:	Date:
Reviewed by:	Date: